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MONTANA LEGISLATIVE HISTORY

Chapter 538 1989

Bill H _____ S 139 Original bill & history ___C

H. Committee on Taxation		S. Committee on Business & Industry	
Hearing Date(s) Mar 29	✓C	Hearing Date(s) Jan 19	___C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Mar 29	✓C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

S. Taxation

Jan 25

3/03	HEARING		
3/03	COMMITTEE REPORT--BILL CONCURRED		
3/04	2ND READING CONCURRED	74	5
3/06	3RD READING CONCURRED	91	3
	RETURNED TO SENATE		
3/13	SIGNED BY PRESIDENT		
3/14	SIGNED BY SPEAKER		
3/15	TRANSMITTED TO GOVERNOR		
3/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 130 EFFECTIVE DATE: 10/01/89		

SB 136 INTRODUCED BY NATHE
PROVIDE FOR TRANSFER OF A TENURE TEACHER BETWEEN TEACHING AND ADMINISTRATIVE POSITIONS

1/14	INTRODUCED		
1/14	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/16	FISCAL NOTE REQUESTED		
1/18	HEARING		
1/23	FISCAL NOTE RECEIVED		
1/23	FISCAL NOTE PRINTED		
1/30	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/01	2ND READING PASSED	36	13
2/03	3RD READING PASSED	33	17
	TRANSMITTED TO HOUSE		
2/21	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/03	HEARING		
3/07	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/09	REREFERRED TO EDUCATION & CULTURAL RESOURCES		
3/14	COMMITTEE REPORT--BILL NOT CONCURRED AS AMENDED		
3/15	ADVERSE COMMITTEE REPORT ADOPTED	52	45

SB 137 INTRODUCED BY NATHE
ALLOW A CORPORATION TAX ELECTION ON CARRYFORWARDS AND CARRYBACKS

1/14	INTRODUCED		
1/14	REFERRED TO BUSINESS & INDUSTRY		
1/16	FISCAL NOTE REQUESTED		
1/19	HEARING		
1/20	FISCAL NOTE RECEIVED		
1/20	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/21	FISCAL NOTE PRINTED		
1/23	REREFERRED TO TAXATION		
1/25	HEARING		
1/25	COMMITTEE REPORT--BILL PASSED		
1/27	2ND READING PASSED	49	0
1/30	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/21	REFERRED TO TAXATION		
3/29	HEARING		
3/31	COMMITTEE REPORT--BILL CONCURRED		
4/03	2ND READING CONCURRED	96	0
4/04	3RD READING CONCURRED	96	0
	RETURNED TO SENATE		

4/08 SIGNED BY PRESIDENT
4/08 SIGNED BY SPEAKER
4/10 TRANSMITTED TO GOVERNOR
4/14 SIGNED BY GOVERNOR
CHAPTER NUMBER 538 EFFECTIVE DATE: 4/14/89

SB 138 INTRODUCED BY BROWN, ROBERT, ET AL.
REQUIRE LOAN AND CREDIT AGREEMENTS TO BE IN WRITING

1/14 INTRODUCED
1/14 REFERRED TO BUSINESS & INDUSTRY
1/19 HEARING
1/20 COMMITTEE REPORT--BILL PASSED
1/24 REREFERRED TO JUDICIARY
1/27 HEARING
2/08 HEARING
2/09 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/11 2ND READING PASSED AS AMENDED 30 16
2/14 3RD READING PASSED 33 14

TRANSMITTED TO HOUSE
2/21 REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT
3/13 HEARING
3/13 TABLED IN COMMITTEE

SB 139 INTRODUCED BY HAGER
CHANGE TO 24 MONTHS THE MAXIMUM TIME FOR REDEMPTION OF PROPERTY TAX LIEN ON CERTAIN SUBDIVIDED PROPERTY

1/14 INTRODUCED
1/14 REFERRED TO TAXATION
1/20 HEARING
1/25 COMMITTEE REPORT--BILL PASSED AS AMENDED
1/27 2ND READING PASSED 49 0
1/30 3RD READING PASSED 49 0

TRANSMITTED TO HOUSE
2/21 REFERRED TO TAXATION
3/29 HEARING
3/29 COMMITTEE REPORT--BILL CONCURRED
4/05 2ND READING CONCURRED 95 2
4/06 3RD READING CONCURRED 96 1

RETURNED TO SENATE
4/13 SIGNED BY PRESIDENT
4/17 SIGNED BY SPEAKER
4/17 TRANSMITTED TO GOVERNOR
4/18 SIGNED BY GOVERNOR
CHAPTER NUMBER 564 EFFECTIVE DATE: 10/01/89

SB 140 INTRODUCED BY JERGESON, ET AL.
MAKE POSSESSION OF P2P (PHENYLACETONE) PUNISHABLE AS PRECURSORS TO DANGEROUS DRUGS

1/16 INTRODUCED
1/16 REFERRED TO JUDICIARY
1/24 HEARING
1/25 COMMITTEE REPORT--BILL PASSED

commodity can transport a commodity in his own vehicle without PSC authority. Right now, there is no record to establish ownership of gasoline. During transport, ownership identity is vital to the Motor Carriers Division in determining whether the Act is being obeyed." (See Exhibit #6)

Questions From Committee Members:

Senator Weeding wondered why the Act just referred to gasoline, and not diesel too? Norris Nichols explained, "There are two Acts in the state of Montana. One is a gasoline act, which licenses distributors, and the tax is placed upon that distributor. The diesel tax is a use tax, and is placed upon the fuel at time of use, so it wouldn't fit here."

Closing by Sponsor:

Representative Harrington felt the amendment was needed, and he hoped the committee would recommend a Do Pass.

DISPOSITION OF SENATE BILL 138

Discussion: None

Recommendation and Vote:

Senator Lynch moved SB 138 Do Pass. Senator Meyer Seconded the motion. Motion carried unanimously.

DISPOSITION OF HOUSE BILL 3

Discussion:

Chairman Thayer clarified the proposed amendment. The one word change was agreed upon, and action was taken. (See Exhibit #7)

Amendments and Vote:

Senator Lynch moved the amendment. Senator Meyer seconded. Motion carried.

Recommendation and Vote:

Senator Lynch moved House Bill 3 Do Pass As Amended. Senator McLane seconded. Motion carried. Senator Noble was assigned to carry House Bill 3.

HEARING ON SENATE BILL 137

Presentation and Opening Statement by Sponsor:

Senator Dennis Nathe, District 10 stated, Senate Bill 137 was a bill to allow corporations to make elections,

in their corporate income tax, to carry losses forward or backward. At the present time, in the state of Montana, you were only allowed to carry losses back. This bill would provide the option of a loss carry forward as was offered with federal income tax preparation.

Senator Nathe identified Section 3 as a new section created for the purpose of singling out all which pertained to net operating losses in the deduction section, which dealt with loss carry forwards and carry backs.

List of Testifying Proponents and What Group They Represent:

Tom Harrison, Montana Society of Certified Public Accountants
Lynn Chenowith, Department of Revenue

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Tom Harrison said the bill simplified the process, as it conformed the state tax return preparation with the preparation of federal taxes. This would benefit the tax accountant, and the tax payer alike. It allowed the tax payer to carry losses forward or back and enabled him to level income through years of great fluctuation of income. (See Exhibit #8)

Lynn Chenowith stated they hadn't taken a position on the bill. Generally, he said he thought they would support it because of the aligning of state and federal loss and carry over provisions.

Chenowith stated, "He thought, page 9, line 1[illegible] "subsection (1)" should be "subsection (2)". The second item of concern was when the previous net operating loss provisions were stricken and reinserted in Section Three, on several occasions the words "shall not" were changed to "may not". The departments review felt it didn't change the substance of the law. It does, however, feel it provides some discretion to the department. If a refund is the result of a net loss carry back, the Department of Revenue shall not issue interest as it now reads. The change leaves it to the discretion of the Department. The Department of Revenue suggested this language be clarified." (See Exhibit #9)

Questions From Committee Members: Mr. Harrison replied to Senator Lynch's inquiry regarding the language change, this committee has the best legal staff in the building, and leave it to her explanation. Mary McCue said they were trying to clean up the grammar in the bill, and the proper term was "may not". It does not give the Department of Revenue any discretion. It means they can't. Mary further informed Senator Lynch the issue of subsection (1), instead of subsection (2) was a typographical error, and should be subsection (2). She stated this error should be corrected with an amendment.

Closing by Sponsor:
Senator Nathe closed by stating, "The bill is a simple means of allowing corporations to level out a fluctuating income and loss situation.

DISPOSITION OF SENATE BILL 137

Discussion:
The error, concerning the subsection of this bill, required an amendment.

Amendments and Votes:
Senator Lynch moved to amend the bill to change subsection (1), to subsection (2). It was seconded by Senator Noble. Motion carried. (See Exhibit 10)

Recommendation and Vote:

Senator Hager moved SB 137, DO PASS AS AMENDED. Senator McLane seconded the motion. Motion carried.

ADJOURNMENT

Adjournment At: 11:34 A.M.

GENE THAYER, Chairman

GT/ct

BUS119

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 1/19/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DARRYL MEYER	✓		
SENATOR PAUL BOYLAN			✓
SENATOR JERRY NOBLE	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM HAGER	✓		
SENATOR HARRY MC LANE	✓		
SENATOR CECIL WEEDING	✓		
SENATOR JOHN"J.D."LYNCH	✓		
SENATOR GENE THAYER	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 19, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration SB 137 (first reading copy -- white), respectfully report that SB 137 be amended and as so amended do pass:

1. Page 9, line 15.
Strike: "(1)"
Insert: "(2)"

AND AS SO AMENDED DO PASS

Signed: _____
Gene Thayer, Chairman

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8
DATE 1/19/89
BILL NO. SB137 SB137

(This sheet to be used by those testifying on a bill.)

NAME: Tom Nelson DATE: 1/19/88

ADDRESS: 2225 11th Ave Helena

PHONE: 442-6350

REPRESENTING WHOM? Mont Society of CPA's

APPEARING ON WHICH PROPOSAL: HB 137

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 9
DATE 1/19/89
BILL NO. SB 137

(This sheet to be used by those testifying on a bill.)

NAME: Lyle Linnaweh DATE:

ADDRESS: Mitchell Bldg

PHONE: 444-2407

REPRESENTING WHOM? Dept of Revenue

APPEARING ON WHICH PROPOSAL: SB 137

DO YOU: SUPPORT? _____ AMEND? ✓ OPPOSE? _____

COMMENT: see attachment Exhibit #9

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 9
DATE 1/19/89
BILL NO. SB 137

TESTIMONY ON SB 137

BY LYNN CHENOWETH

DEPARTMENT OF REVENUE

(1) On page 9, line 15, it should read "subsection (2)" rather than "subsection (1)"

(2) On pages 9 and 10, the word "shall" in the current statute has been changed to "may" on seven different occasions. The Department feels that these changes do not alter the current reading of the statute and therefore has no objections. However, if this committee feels that these changes either alter the current statute or make the statute less clear, we recommend that an amendment be made to change the references to "may" back to "shall".

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 10
DATE 1/19/89
BILL NO. SB137

Amendments to Senate Bill No. 137
First Reading Copy

For the Committee on Business and Industry

Prepared by Mary McCue
January 19, 1989

1. Page 9, line 15.
Strike: "(1)"
Insert: "(2)"

DATE 1/19/89

COMMITTEE ON Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
GEORGE BENNETT	MONT. BKRS ASSN	SB 138	X	
Phillip S Johnson	Mt Bkrs Assoc	SB 138	X	
GORDON OLMENDORF	MOUNTAIN BANK-WESTERN	SB 138	X	
Doug Bartelson	Valley Bank of Helena	SB 138	X	
Paladichuk	M.D.U.	137	X	
CHIP ERDMANN	Mt League of Savings Inst	SB 138	X	
Roger Tippy	M Indep Bankers	138	X	
H Buck Boles	Mt Chamber of Commerce	SB 138	X	
OBERT BELL	Mt Society of CPAs	SB 137	X	
YNN CHENOWETH	Dept. of Revenue	SB 137	Technical	
NORRIS NICHOLS	Dept. of Revenue	H.B. 3	X	
Bentsandahl	MT. Motor Carrier's Assoc	HB 3	X	

(Please leave prepared statement with Secretary)

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Bob Brown, on January 25, 1989, at 8:00 a.m.

ROLL CALL

Members Present: Senator Brown, Senator Hager, Senator Eck, Senator Norman, Senator Bishop, Senator Halligan, Senator Walker, Senator Harp, Senator Gage, Senator Severso , Senator Mazurek, Senator Crippen

Members Excused: None

Members Absent: None

Staff Present: Jill Rohyans, Committee Secretary
Jeff Martin, Legislative Council

Announcements/Discussion: None

HEARING ON SENATE BILL 137

Presentation and Opening Statement by Sponsor:

Senator Nathe, District 10, sponsor of the bill, said it allows an election to forego the carryback of a net operating loss and applies a net operating loss only as a carryforward for the purposes of determining net income for corporation license tax or corporation income tax. Currently, the net operating loss must be carried back three years before it can be carried forward. SB 137 changes that so that there can be a carryforward without a carryback. The carryforward remains at seven years as it is currently.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony: None

Questions From Committee Members:

Senator Norman asked about the federal guidelines.

Senator Nathe replied that all he knew about the federal regulations is that the carryforward is fifteen years.

Mr. Bennett indicated this bill brings Montana law into compliance with federal law.

Closing by Sponsor: Senator Nathe closed.

HEARING ON SENATE BILL 184

Presentation and Opening Statement by Sponsor:

Senator Severson, District 32, sponsor of the bill, reviewed the history of the livestock tax. He pointed out that the Montana Constitution and the United States Constitution both contain an equal protection clause which requires that comparable property be treated the same for tax purposes. The Montana Constitution further contains a uniformity provision that requires that taxes on comparable property be equalized. Historically, livestock has been treated the same as any other business inventory for tax purposes.

In 1975, following 56 years of equal classification of livestock and other business stock, the Legislature relabeled stocks of merchandise as business inventory and moved then into a new classification with reduced tax rates. That was the first time livestock inventory was treated differently than all other business inventories in Montana. In 1981, the Legislature acted to equalize all business inventories through SB 47. However, that session also passed SB 283 which created a tax exemption for all business inventories except livestock inventories. The result was an unconstitutional classification.

Virtually all the western states have eliminated taxes on business inventories, including livestock. Montana's livestock inventories are therefore at a serious competitive disadvantage. The Montana Constitution cites Agriculture as the sole industry in

Senator Eck questioned the fee assessment funding of the Department of Livestock.

Senator Severson responded by saying the Department of Livestock is the only department in state government funded solely by the individuals it for whom it works. He said the cattlemen want it that way.

Les Graham, Director, Department of Livestock, said the per capita levy or fee amounts to approximately 50% of the budget of his department and in some cases provides 100% of the funding of specific programs within the Department. The total income from that in any given year ranges from $1,800,000 to $2,000,000 per year depending on the headcount of the livestock in the state.

Closing by Sponsor:

Senator Severson closed by saying "it's time, it's right, and it's fair" to pass this bill this session. He urged the committee to support the bill.

DISPOSITION OF SENATE BILL 137

Discussion:

Senator Norman pointed out that the one effect this bill will have is decreased revenue. It probably will not be too much but it is hard to pinpoint because it will only be used when a taxpayer has to pay less taxes, not more.

Senator Gage said the election to carryforward has to be made by the due date of the year in which you have a loss. This means you cannot make the election in the past years when a loss was sustained.

Senator Eck asked how the provisions of this bill fit with federal statute.

Senator Gage replied in general the federal adjustments that are made in carrybacks and carryforwards are pretty much the same as the state.

Senator Eck said this is a situation that must be kept in mind when the committee gets into a larger tax reform package.

Senator Gage said if we don't have this bill cannot deal with just a carryforward. You must deal with the carrybacks first which means using a whole lot of different numbers.

Senator Mazurek asked if anyone from the Department of Revenue had evaluated the bill.

Steve Bender, Department of Revenue, replied that they had looked at the bill and their only concern was the numerous changes of "shall" to "may". There is some concern that this is a substantive change and gives them more discretion. He noted there is no problem with the carryover provisions at all, in fact, that section is very beneficial.

Mr. Bender pointed out there is a one time avoidance of refunds built into the bill. Right now they are carried back three years and that could wipe out the previous two years tax. That should be paid right away but under this bill it is spread out.

DOR feels financial institutions may be willing to carryforward just for local public relations.

Mr. Bender felt this is also a matter of simplicity. He said that being able to follow federal statutes with state statutes avoids paying extra accounting charges.

Amendments and Votes: None

Recommendation and Vote: Senator Gage moved SB 137 DO PASS. The motion CARRIED unanimously.

DISPOSITION OF SENATE BILL 132

Discussion:

Senator Mazurek reviewed the proposed amendments to the bill (Exhibit #3). It was decided that further work needed to be done on the amendments for clarification. Jeff Martin will work with Senator Mazurek on amendments for the next meeting.

ROLL CALL

TAXATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 1/25/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	V		
SENATOR BISHOP	X		
SENATOR CRIPPEN	V		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

January 25, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration SB 137 (first reading copy -- white), respectfully report that SB 137 do pass.

DO PASS

Signed: Bob Brown

Bob Brown, Chairman

H.C.
1/25/89
1:26 p.m.

viability of airlines in regard to size. Mr. Norsworthy stated the business was very fragile particularly in a sparsely populated area.

Mr. Norsworthy asked permission to make a comment. Chairman Harrington concurred. Mr. Norsworthy stated he wished to apologize to Mr. Morris for failing to notify him since they had worked together to try to resolve the airlines tax difficulties. He said he just learned of the requirement to pay the taxes last week. He said he immediately notified Rep. Ramirez and was surprised that the hearing was held so soon. He stated he did not expect such quick action.

Rep. Hoffman asked Rep. Ramirez if there should not be a sunset clause in the bill. Rep. Ramirez stated he had no objection to that. Chairman Harrington commented the bill is effective on the date it passes and sunsets itself.

Rep. Good asked Rep. Ramirez if he would comment on Mr. Morris's alternative plan giving the county commissioners additional authority. Rep. Ramirez stated he thought that would be fine in a broader context but the airline needs this assistance immediately.

Closing by Sponsor: Rep. Ramirez stated he did not intend to exclude Mr. Morris. He said he did not see other alternatives at the present time since the situation needed immediate attention.

DISPOSITION OF HOUSE BILL 791

Motion: DO PASS by Rep. Rehberg.

Discussion: Rep. Driscoll stated if the airline goes into Chapter 7 bankruptcy, there would be much less tax collected plus the airline service is needed. Chairman Harrington agreed stating it is essential to continue the air service.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: Motion CARRIED by a 14 to 3 voice vote with Reps. Stang, Elliott and O'Keefe voting no.

HEARING ON SENATE BILL 137

Presentation and Opening Statement by Sponsor:

Senator Dennis Nathe, District 10, stated under federal income tax law, a corporation can elect to carry their losses backward or forward but under the state income tax laws, a corporation can only carry their losses back and then forward. He said under SB 137, a corporation has the option to carry their losses either backward or forward on the state income tax.

Testifying Proponents and Who They Represent:

Tom Harrison, Montana Society of CPAs
Kay Foster, Billings Chamber of Commerce

Proponent Testimony:

Tom Harrison stated the bill will bring the state income tax in line with the federal in regard to the carry forward or backward of losses. He said this will save the tax preparer time and make the taxes much simpler. He urged support of the bill.

Kay Foster urged support of the bill.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Senator Nathe stated the bill is just to eliminate costly mistakes in this respect.

DISPOSITION OF SENATE BILL 137

Motion: None.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: None. Action will be taken at a later date.

HEARING ON SENATE BILL 253

Presentation and Opening Statement by Sponsor:

Senator Sam Hofman, District 38, stated this bill was a matter of fairness and provides a special fuel tax exemption for private schools. He said this exempts their diesel operated school buses from taxation. He stated there is no fiscal impact.

Testifying Proponents and Who They Represent:

Norse Nichols, Administrator, Motor Fuels Tax Division,

DAILY ROLL CALL

TAXATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 29, 1989

NAME	PRESENT	ABSENT	EXCUSED
Harrington, Dan, Chairman	✓		
Ream, Bob, Vice Chairman	✓		
Cohen, Ben	✓		
Driscoll, Jerry	✓		
Eliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted	✓		
Stang, Barry	✓		
Ellison, Orval	✓		
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John		✓	
Rehberg, Dennis	✓		

CS-30

VISITORS' REGISTER

HOUSE TAXATION COMMITTEE

BILL NO. SB 137 DATE March 29, 1989

SPONSOR Sen. Dennis Nathe

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Kay Foster	Billings Chamber	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.